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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,487	10/27/2003	Kent J. Myers	KMY.P.0003	1972
7590 06/16/2004			EXAMINER	
Mark L. Weber Renner, Kenner, Greive, Bobak, Taylor & Weber First National Tower Fourth Floor Akron, OH 44308			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 06/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,487

Applicant(s)

MYERS, KENT J.

Examiner

Phong H Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10 and 13-17 is/are rejected.
- 7) ☐ Claim(s) 8, 9, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Specification does not disclose how a pipe-cutter system comprising a plurality of rotary head portions operates. It only discloses a pipe-cutting device having one rotary head portion.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a pipe-cutter system comprising a plurality of rotary head portions must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lazarevic (6,065,212).

Regarding claims 1-3 and 16, Lazarevic (6,065,212) teaches all the recited elements of the invention including a pipe cutter device comprising a rotary head 16, a housing gear, a pipe slot, a pipe cradle, a cutting wheel 37, wheel biasing members 57

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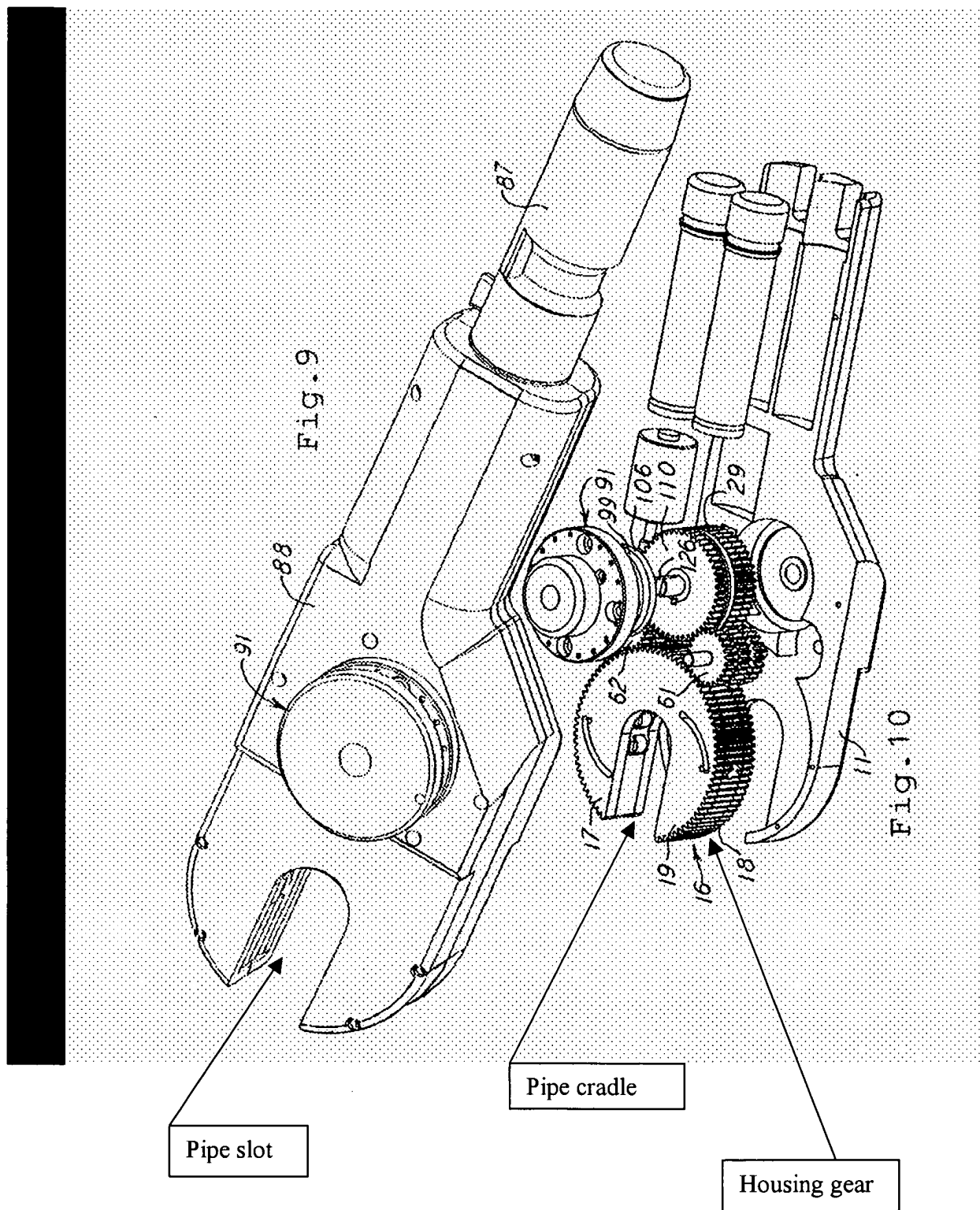
and 59, a drive source 26 and a gear system comprising a prime gear 64, a first drive gear 61 and a second drive gear 62. See Figs. 1-18.

Regarding claim 4, a slot-engaging gear 31 is best seen in Fig. 1. The teeth of the gears are considered as protrusions. During the rotation of gear 31 and the housing gear, the protrusions engage the pipe slot.

Regarding claim 13, two freewheeling support rollers 52 are best seen in Figs. 6, 11, 16 and 18.

Regarding claim 14, an adjustable block 46 is best seen in Fig. 11.

Regarding claim 15, pipe-engage-surfaces 52 are best seen in Fig. 11, 16 and 18.



6. Claims 1-7, 10 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by VanderPol et al. (4,890,385).

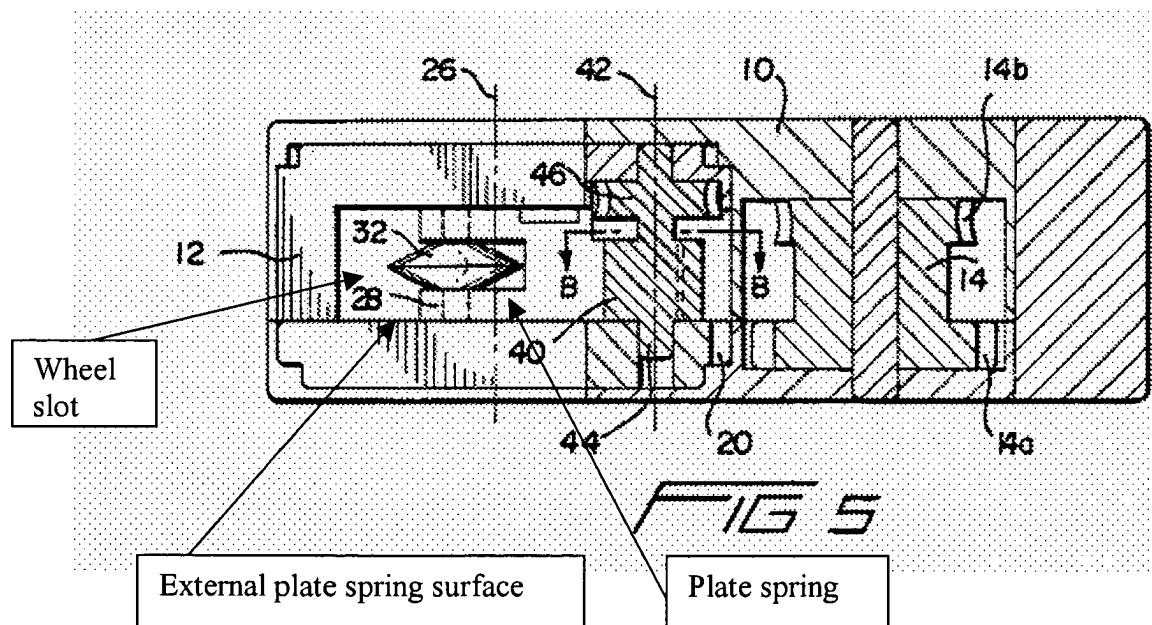
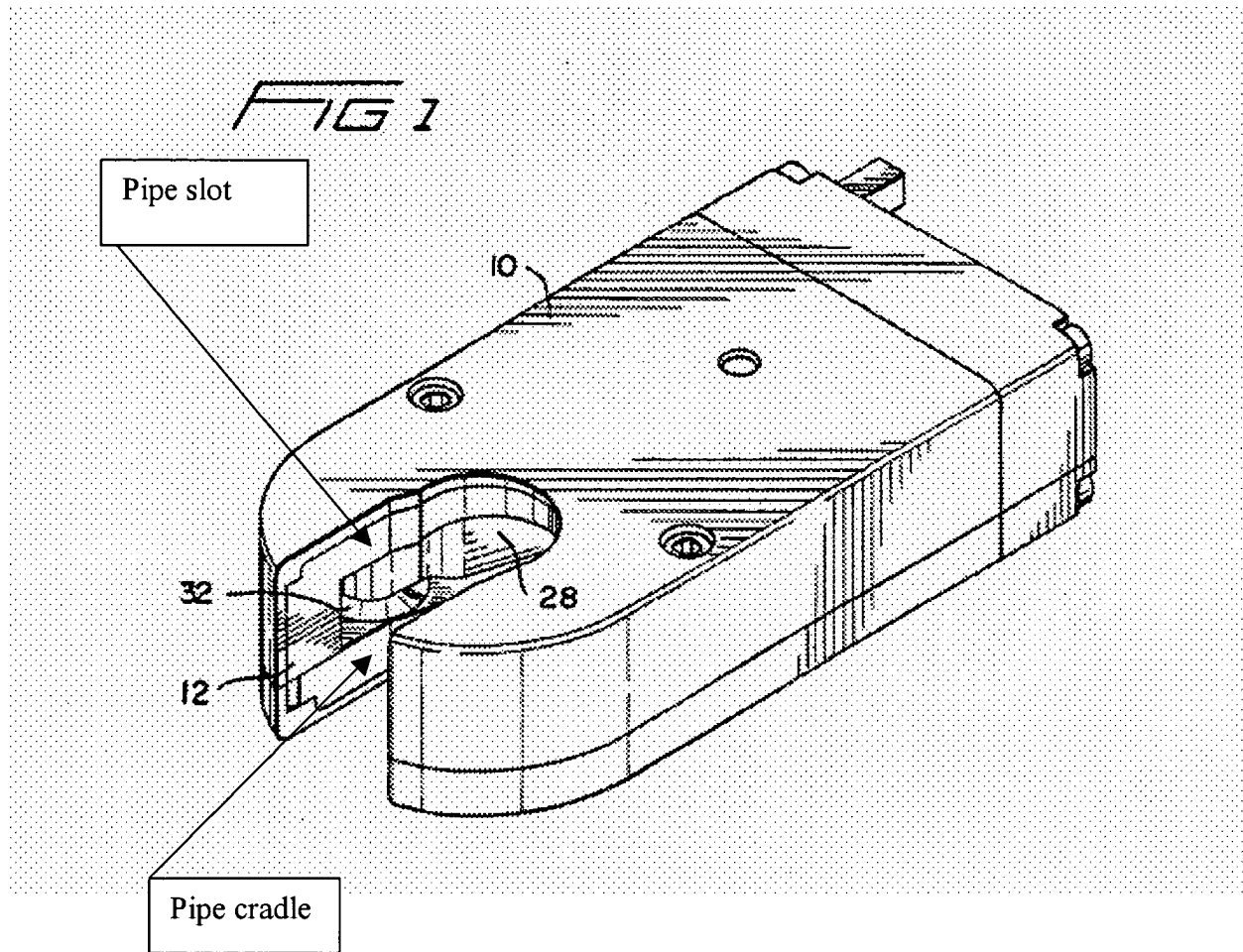
Regarding claims 1-4 and 16, VanderPol et al. teach all the recited elements of the invention including a pipe cutter device comprising a rotary head 12, a housing gear 20, a pipe slot, a pipe cradle, a cutting wheel 32, a wheel biasing member comprising elements 28, 30 and 36 and a drive source inherently in the pipe cutting assembly. See Figs. 1-8.

A slot-engaging gear comprising gears 16 and 18 is best seen in Fig. 3. The teeth of gears 16 and 18 are considered as protrusions. During the rotation of gears 16 and 18 and the housing gear 20, the protrusions engage the pipe slot.

Regarding claims 5, 6 and 7, the wheel-biasing member comprising two plates 28 to form a slot therein for receiving the cutting wheel and the spring 28 for disengaging the cutting wheel from the pipe is considered as a plate spring member since it performs the same claimed functions. The plates 28 support the freewheeling shaft of the cutting wheel and the spring 28 urges the freewheeling shaft via the plates 28. See Figs. 2, 4 and 5.

Regarding claim 10, the spatial relationship of the rotary head and the plate spring member is best seen in Fig. 5.

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Allowable Subject Matter

7. Claims 8, 9, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kelley (3,715,804), Courty (4,438,562), Wrate (6,202,307 B1), VanderPol et al. (4,802,278), Lee (6,739,055 B2), Araki (4,769,911), Giralda (4,305,205), Cronin et al. (5,836,079), Walsh et al. (6,637,115 B2) teach pipe cutting devices of general interest.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 703-305-4989. The examiner can normally be reached on Mon-Fri.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: *pn*

June 7, 2004


STEPHEN CHOI
PRIMARY EXAMINER